

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

RAYMOND J. DONOVAN,

*Plaintiff,*

v.

DRAGADOS, S.A., DRAGADOS  
INVERSIONES USA, S.L., and NEWARK  
REAL ESTATE HOLDINGS, INC.,

*Defendants.*

Civil Action No. 09-409 (KSH)

**OPINION AND ORDER**  
**CLARIFYING SPECIAL MASTER'S**  
**JURISDICTION BASED ON PRIOR**  
**RULINGS OF THE COURT**

**Katharine S. Hayden, U.S.D.J.**

Having reviewed the submission and attachments [D.E. 291] dated March 17, 2014, the Court makes the following findings and rulings:

Defendants Dragados, S.A., Dragados Inversiones USA, S.L., and Newark Real Estate Holdings, Inc. (hereafter "Dragados") seek clarification from this Court regarding the scope of the Special Master's jurisdiction to determine fees and costs in their submission entitled "Defendant's Motion for Clarification Regarding the Scope of the Special Master's Jurisdiction." Attached to its brief, Dragados has submitted excerpts from a February 4, 2014 transcript and subsequent correspondence that are self-explanatory: Donovan has raised the issue whether Judge Keefe may decide the reasonableness of attorney fees and costs that Dragados has incurred post-trial. Because he cannot decide his own jurisdiction, Judge Keefe directed in an email dated March 13, 2014 that counsel move promptly on this issue.

This Court will provide clarification promptly as well, and save Donovan the time and expense of filing a response to the motion, which would be followed by a reply, all of which would

swell fees and costs further. Waiting until April 21, 2014, the return date, further delays resolution of the issues. A review of the record demonstrates beyond question that the matter is particularly ready for prompt disposition because Court has just spoken on the scope of Judge Keefe's jurisdiction.

On February 7, 2014 it filed an opinion [D.E. 290] responding to Donovan's request to expand Judge Keefe's jurisdiction. In the closing paragraphs, the Court wrote:

Judge Keefe's "discretion to hold a plenary hearing on discrete issues that he may identify" means just that. He has discretion. He sets the "requirements regarding submissions, their contents and length." [Opinion, p. 48.] He decides if a plenary hearing is necessary, and he holds the plenary hearing. *He determines the legal fees and costs.* And he issues a final recommendation on the matters the Court has referred to him.

[D.E. 290 p. 7 (emphasis added).]

The Court has charged Judge Keefe with determining the reasonableness of the legal fees and costs that Dragados applies for and the Court has not set down any cut-off date. As a practical matter, reasonableness as a concept embraces when a fee was incurred as well as how many hours were spent. And in determining reasonableness of fees and costs, the language surrounding the direction that "[Judge Keefe] determines the legal fees and costs" is very broad: Judge Keefe identifies discrete issues, decides if he will hold a plenary hearing on them, and issues a final recommendation.

The Special Master Hon. John E. Keefe, Sr., has jurisdiction to determine the reasonableness of all attorneys' fees and costs by Dragados and Schiavone Construction Company through satisfaction of the final judgment.

The attachments to D.E. 291 demonstrate the intensity of the interaction between the parties and the Special Master. In its opinion of June 28, 2013 [D.E. 249], the Court directed that the parties would share equally in the costs and expenses related to the Special Master's services, with

final allocation to be decided by the Court. This direction contemplated interim billing by Judge Keefe, and to the extent he has not submitted charges for his services up until now, he is directed to submit billing to the parties for his charges to date on or before March 31, 2014 and may submit interim bills to the parties on a 45 day cycle thereafter, to be paid within 20 days of receipt.

SO ORDERED this 17th day of March, 2014.

/s/ Katharine S. Hayden  
Katharine S. Hayden, U.S.D.J.